CR 176 of 2007.

30.10.2007 Present: Mr. G.C.Gupta, Sr. Advocate, with Mr. Mohinder Gautam, counsel for the petitioner.
Mr. Ajay Kumar, counsel for respondent No. 1.

The petitioner is aggrieved by order dated 10.9.2007 passed by learned Rent Controller by which application filed by the petitioner respondent under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the eviction petition has been dismissed.

The order shows that learned Rent Controller not only dismissed the application, but closed the right of the contesting respondents – petitioners to file reply to the petition.

I have heard learned counsel for the parties and gone through the record.

The order sheet shows that the case has not received due attention from learned trial Court. The matter has remained pending service from 17.8.2006 to 30.7.2007. Thereafter, application under Order 7 Rule 11 of the Code of Civil Procedure has been dismissed in a cursory manner and the right of defence of the defendant has been closed. Learned Rent Controller was in error in closing the right of defence of the petitioner. Surely, if the

petition was not to be rejected as prayed for, the petitioner had to be given a fair chance to at least submit his reply to the merits of the case. Learned Rent Controller has acted without jurisdiction in closing the defence of the respondent. The order does not disclose any ground in law for not allowing the petitioners - respondents to contest the matter.

In the facts and circumstances of the case, this revision petition is allowed. Order passed by the learned Rent Controller is quashed and set aside. A direction is issued that the case be re-tried after giving petitioners-respondents chance of filing reply. They will be at liberty to take such defence as may be permissible to them in law and in consonance with the Himachal Pradesh Urban Rent Control Act, 1987. Parties are directed to appear before the learned trial Court on 30.11.2007. There shall be no order as to costs. All pending application(s) shall also stand disposed of.

October 30, 2007 (PC). (Dev Darshan Sud), J.